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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Seibel et al.

: Group Art Unit: 1635

Serial No: 08/765,244

: Examiner: K. Lacourciere

Filed: October 30, 1997

**RECEIVED**

MAR 20 2003

**OFFICE OF PETITIONS**

For: CHIMERICAL PEPTIDE-NUCLEIC ACID  
FRAGMENT, PROCESS FOR PRODUCING  
THE SAME AND ITS USES FOR APPROPRIATELY  
INTRODUCING NUCLEIC ACIDS INTO CELL  
ORGANELLES AND CELLS

PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION  
PURSUANT TO 37 C.F.R. 1.137(b)

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as EXPRESS MAIL in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231.

14 March 2003

Date

B. Kroge

B. Kroge

Express Mail Receipt No: EL 946 759 137 US

Commissioner for Patents  
Washington, D.C. 20231

Sir:

The above-identified application became abandoned for improper filing of a Continued Prosecution Application (in lieu of response to Office Action dated January 17, 2001) of an application filed after May 29, 2000. The filing of the Continued Prosecution Application, together with a Petition for Extension of Time (three months) and authorization to charge the necessary fees was treated as a Request for Continued Examination, but it was deemed improper due to the lack of a response to the Final Office Action of January 17, 2001. The abandonment date of this application

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is believed to be July 18, 2002; the Notice of Abandonment was mailed by the Patent and Trademark Office on July 30, 2001.

In response to the Notice of Abandonment mailed July 30, 2001, Applicants respectfully petition for revival of the above unintentionally abandoned application. This Petition is accompanied by a copy of the Notice of Improper Request for Continued Examination, an Amendment under 37 C.F.R. 1.116 (in response to the Final Office Action mailed January 17, 2001) and a check in the amount of \$640.00 as required by 37 C.F.R. 1.17(m). A Change of Correspondence Address and a Revocation of Power of Attorney and Appointment of New Attorney are also submitted herewith. Peter Seibel is the assignee of the present application. Applicants state that any delay in revival of this application is unintentional with respect to Applicants.

If the enclosed fee due under 37 C.F.R. 1.17(m) is not correct, please charge any deficiency or credit any overpayment due under 37 C.F.R. 1.16-1.17 to Deposit Account No. 07-1969.

Respectfully submitted,



Donna M. Ferber  
Reg. No. 33,878

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Attorney Docket No.: 94-02  
bmk: March 14, 2003



APPLICATION NUMBER FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE

DATE MAILED:

**NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)**

The request for continued examination (RCE) under 37 CFR 1.114 filed on 7/17/01 is improper for reason(s) indicated below:

- ☐ 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- ☐ 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- ☐ 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on \_\_\_\_\_. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- ☐ 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- ☒ 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

**Note:** If a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) has been filed in the utility or plant application (including a previously filed CPA) that was filed on or after May 29, 2000, the request for a CPA has been treated as a RCE because the CPA practice no longer applies to such application. The constructive RCE, however, is improper for reason(s) indicated above.

***A copy of this notice MUST be returned with any reply.***

Direct the reply and any questions about this notice to:

\_\_\_\_\_, Examining Group \_\_\_\_\_